

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Implementation of the Non-Accounting) CC Docket No. 96-149
Safeguards of Sections 271 and 272 of the)
Communications Act of 1934, as amended.)
)
Further Notice of Proposed Rulemaking)
on Information Disclosure Requirements)
Relating to Section 272(e)(1).)

JOINT REPLY COMMENTS OF BELL ATLANTIC AND NYNEX

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JOINT REPLY COMMENTS OF BELL ATLANTIC¹ AND NYNEX²

I. INTRODUCTION AND SUMMARY

Even though Section 272(e)(1) has no reporting requirements, and the Commission already has adequate safeguards in place, several parties ask it to adopt expansive reporting, filing and disclosure requirements. The Commission should reject those proposals. They would merely serve those parties' narrow business interests by requiring incumbent local exchange carriers alone to generate burdensome reports that provide no meaningful information but at the same time would reveal competitively

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

² The NYNEX Telephone Companies ("NYNEX") are New England Telephone and Telegraph Company and New York Telephone Company.

sensitive information about those parties' competitors. Instead, to the extent the Commission adopts reporting requirements here, they should be limited to meaningful information that will verify compliance with the specific requirements of section 272(e)(1) and not reveal sensitive data. The Commission can strike this balance by limiting reporting to aggregate data concerning provision of a final service, and relying on percentage ranges and averages as opposed to disclosure of user-specific data.³

**II. LOCAL SERVICES SHOULD NOT
BE INCLUDED IN ANY SECTION 272
REPORTING REQUIREMENT**

Several parties⁴ urge the Commission to expand the scope of the § 272(e)(1) report to include local services. This proposal is misplaced. As Ameritech points out (p. 3): it is appropriate to limit the scope of the reporting requirements to access services provided by the BOC to its § 272 affiliate; and the FNPRM properly observes that nondiscriminatory provision of telephone exchange service is more appropriately addressed in the context of interconnection agreements. Indeed, even MCI has acknowledged that local service reporting issues are better addressed through negotiated local interconnection agreements.⁵

³ See Bell Atlantic/NYNEX 3-4, PacTel 2-4, SBC 8-9, U S WEST 7-9.

⁴ AT&T 5, 13, MCI 4, Sprint 1-4, Teleport 2, 5.

⁵ See Implementation of the Non-Accounting Safeguards of Sections 271 and 272, Petition for Reconsideration of MCI Telecommunications Corp. at 12 (filed Feb. 20, 1997) (in contrast with Section 272 reports, "interconnection agreements address the equal treatment of the BOC and its local service competitors").

III. THE COMMISSION SHOULD ADOPT REASONABLE REQUIREMENTS RELATING TO AGGREGATION OF DATA, FREQUENCY AND MANNER OF REPORTING, AND INFORMATION RETENTION

Any reporting requirements adopted by the Commission here should be limited to meaningful data to verify compliance with the requirements of Section 272(e)(1).

Several parties argue that reports should be generated on the basis of overly narrow geographic areas such as an MSA or even a local exchange.⁶ Using such restricted study areas requires multiple reports which not only create a significant burden, but actually reduce the usefulness of the reports. The multiple reports would be so limited in scope that any conclusions drawn on the data would be questionable.

Similarly, differentiating the "DSO" category into subcategories of Voice Grade and Digital⁷ offers no additional regulatory benefit. Furthermore, to provide such detail, both Bell Atlantic and NYNEX systems and reporting procedures would require significant modification at great burden and expense.

The Commission should also reject arguments that reports should be prepared and/or updated on a monthly basis.⁸ To produce monthly reports would be burdensome for the BOCs and the FCC to administer, yield a smaller sample size, and be contrary to the deregulatory nature of the Act. Indeed, the Act [Section 402(b)(2)(B)] allows for all ARMIS reports, some of which contain carrier measurements, to be filed "annually."

⁶ Sprint 2, 4-5, Teleport 16-17, TRA 12.

⁷ TRA 12.

⁸ AT&T 17, Sprint 2, 4, TRA 8.

Compliance data should be reported on the same basis, or at a minimum, no more frequently than quarterly.⁹

AT&T (at p. 17) and MCI (at p. 2) propose that reports should be posted on the Internet.¹⁰ As shown by BellSouth (p. 3), this proposal should not be adopted. Other information which the FCC has ordered to be made available on the Internet will already be in text format.¹¹ The information proposed to be made available in this docket may need to be extracted from older computer systems, many of which may not be readily linked to the Internet. Rather than order the BOCs to post reports on the Internet, the FCC should adopt its tentative conclusion to make this information available at one of the BOC's offices during regular business hours.¹²

AT&T states that (p. 17) BOCs should be required to maintain copies of their § 272(e)(1) reports, as well as all of the data underlying them, for a period of at least two years. However, since it is uncertain what measurements will be finally required in this matter, it is also uncertain which systems will be used to obtain the data. Rather than attempt to establish retention criteria for all supporting processes, which would involve

⁹ See Bell Atlantic/NYNEX 4, Ameritech 17, MCI 7, PacTel 12, Teleport 16-17, U S WEST 8.

¹⁰ See also Sprint 2.

¹¹ Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, CC Docket No. 96-150, Report and Order released December 24, 1996, para. 122 (FCC has required the § 272 separate affiliate to provide a detailed written description of the asset or service transferred and the terms and conditions of the transaction on the Internet within 10 days of the transaction. This information must also be made available for public inspection at the principal place of business of the BOC).

¹² See FNPRM para. 370.

hundreds of thousands of pages, retention requirements should be specified only for the reports and summary level data that were used to produce the reports -- not for the underlying data. A two-year retention period for reports and summary level data would be reasonable. Supporting data should be retained for no longer than current corporate retention policies for such data.

**IV. ADDITIONAL REPORTING
MEASURES SHOULD NOT BE ADOPTED**

AT&T (at pp. 5-11) urges the Commission to adopt additional requirements to measure exchange access provisioning. These proposed measures are inappropriate and largely focus on intermediate checkpoints which have no meaning to end user customers. Section 272(e)(1) focuses on intervals for provision of a final service. Specifically, the Commission should reject the following proposed measurements:

Time From Customer Desired Due Date: Measuring customer desired date, as recommended by AT&T, does not support parity. As the Commission recognizes, a BOC has no control over customer requested dates.¹³ Using this benchmark gives a competitive carrier the ability to manipulate when an incumbent carrier would be found in non-compliance with the Act by consistently requesting expedited or postdated orders. Using Average Interval in Days to Firm Order Completion Date is more consistent with Section 272(e)(1), which requires that the BOC provide service to unaffiliated customers within a period no longer than the period it provides such service to itself and its

¹³ FNPRM para. 373.

affiliates.¹⁴ It is the Firm Order Completion Date over which a BOC has control, and it is that date that should be measured to ensure parity with unaffiliated customers.¹⁵

Time From Service Request To Installation: Measuring the actual time from the service request to the installation is also a measurement that can be manipulated by competitive carriers requesting and negotiating due dates to provision service beyond the BOC set standard service provisioning intervals.¹⁶ Such requests would artificially lengthen a competitive carrier's time period to obtain service from the BOC. The average interval in days from the service request to the Firm Order Completion Date (which would exclude customer requests that are intentionally set beyond the normal interval)¹⁷ is a measurement that is readily available and avoids manipulation. To ensure that there is no discrimination in meeting these standard interval commitments, measuring percentage of installations on time¹⁸ would identify whether the BOC met its agreed-upon commitments equally for unaffiliated customers as compared to itself and its affiliates.

¹⁴ For similar reasons, Bell Atlantic/NYNEX (at p. 5) and other commentors have shown that the Commission should delete the first item from its proposed reporting format (successful completion according to a desired due date [measured in a percentage]). Such a measurement is outside the BOC's control and could be gamed by rivals. See Ameritech 9-11, BellSouth 3, PacTel 4-5, U S WEST 5.

¹⁵ For example, NYNEX presently measures on-time provisioning for private line services (DSO, DSI and DS3) with respect to due date agreed upon with the customer based upon standard intervals, over which NYNEX has some control unlike customer desired due dates.

¹⁶ For instance, even in cases where facilities are available, NYNEX is often asked weeks in advance to write orders for future service.

¹⁷ See Bell Atlantic/NYNEX, Attachment, pp. 1-2 (recommending Performance Measurement #1 -- Average Interval in Days).

¹⁸ See id. (recommending Performance Measurement #2 -- Percent Install on Time).

Jeopardy Notification Provided: Information relative to this measure proposed by AT&T is not produced today and is not necessary to fulfill the purpose of Section 272(e)(1).¹⁹ AT&T (p. 8) acknowledges that Jeopardy Notification is a business tool used by AT&T to service its customers. It has nothing to do with the nondiscrimination requirement of Section 272.

Reporting By CIC: AT&T does not provide any rationale as to why reporting by Carrier Identification Code (CIC) is necessary.²⁰ The objective of Section 272(e)(1) is to benchmark against BOC and BOC affiliate service fulfillment intervals, not to compare unaffiliated customers with other unaffiliated customers.²¹ Also, reporting and maintaining PIC changes by individual carrier identification (CIC) would be burdensome, very expensive, and reveal competitively sensitive information.²²

¹⁹ Furthermore, a jeopardy notification process would necessitate additional expenditures for systems development as well as for human resources.

²⁰ AT&T 21. See also SBC 9.

²¹ Furthermore, comparing AT&T results to a carrier with statistically insignificant volumes will be misleading because transaction volumes are significantly different.

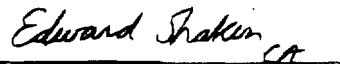
²² As shown by Bell Atlantic/NYNEX (at p. 6) and others, the Commission should delete its proposed item 6 (time to restore PIC after trouble incident [measured by percentage restored within each successive 1 hour interval, until resolution of 95% restored]). See also Ameritech 14-15, BellSouth 4, PacTel 8. This measurement is not meaningful or necessary, and at most the mean time to repair PIC troubles should be measured. That measurement would be similar to item 5 (time to restore and trouble duration), as refined by Bell Atlantic/NYNEX. See Bell Atlantic/NYNEX 7 and Attachment, pp. 1-2 (recommending Performance Measurement #3 -- Mean Time to Clear Reports). The Commission's proposed item 7 (mean time to clear network/average duration of trouble [measured in hours]) should be deleted since it is redundant with item 5 and could arbitrarily include time determining which provider is responsible for the trouble. See PacTel 8.

V. CONCLUSION

The Commission should reject burdensome and meaningless reporting proposals, and instead either rely on existing safeguards or prescribe reporting requirements narrowly focused on Section 272(e)(1), as proposed by Bell Atlantic and NYNEX.


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March 21, 1997

CERTIFICATE OF SERVICE

I, Janna Krasnopsky, hereby certify that copies of the foregoing **JOINT REPLY COMMENTS OF BELL ATLANTIC AND NYNEX** were served on the parties listed on the attached service list, this 21st day of March, 1997, by first class United States mail, postage prepaid.


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